

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

ELECTRONICALLY
FILED
Jun 15 2017
U.S. DISTRICT COURT
Northern District of WV

KASEE R. PORTER, DAVID PORTER,)
S.P., a minor, J.P., a minor, PAMELA)
LIPSCOMB and DAVID LIPSCOMB,) Civil Action No.: 5:17-CV-86 (Bailey)
Plaintiffs,)
v.)
SANDEEP BADWALSINGH and INDY)
FREIGHT, INC.,)
Defendants.)

NOTICE OF REMOVAL

AND NOW, come the Defendants, Sandeep Badwalsingh and Indy Freight, Inc., by and through their attorneys, Pion, Nerone, Girman, Winslow & Smith, P.C. and Timothy A. Montgomery, Esquire, and hereby file this Notice of Removal Pursuant to 28 U.S.C. §§1441 et seq., from the Circuit Court of Ohio County, West Virginia, and in support thereof, aver as follows:

1. Plaintiffs Kasee R. Porter, David Porter, S.P., a minor, J.P., a minor, Pamela Lipscomb and David Lipscomb initiated this action against Defendants by filing a Complaint on or about May 11, 2017 in the Circuit Court of Ohio County, West Virginia, Civil Case No. 17-C-140 naming Sandeep Badwalsingh and Indy Freight as Defendants. Attached hereto as Exhibit "A" is the state court docket sheet and a redacted copy of the Complaint in compliance with Local Rule 5.08.

2. At the time this action was commenced, and continuing to the present, Plaintiffs Kasee R. Porter, David Porter, S.P., a minor, and J.P., a minor, were and are residents of West Virginia residing in Wheeling, Ohio County, West Virginia. See Exhibit A.

3. At the time this action was commenced, and continuing to the present, Plaintiffs Pamela Lipscomb and David Lipscomb were and are residents of West Virginia residing in New Martinsville, Wetzel County, West Virginia. See Exhibit A.

4. At the time this action was commenced, and continuing to the present, the Defendant Sandeep Badwalsingh was and is a permanent resident of the State of California. See Exhibit A.

5. At the time this action was commenced, and continuing to the present, the Defendant Indy Freight, Inc. was and is a corporation duly organized and existing under the laws of the State of Indiana with a principle business address in Greenwood, Indiana. See Exhibit A.

6. The current action pending in the Circuit Court of Ohio County, West Virginia, is within the jurisdiction of the United States District Court for the Northern District of West Virginia.

7. The United States District Court for the Northern District of West Virginia has original jurisdiction of this action pursuant to 28 U.S.C. §1332 as the controversy exceeds the sum of \$75,000, exclusive of interest and costs, and it is between citizens of different states.

8. This action is removable from the Circuit Court of Ohio County, West Virginia pursuant to provision 28 U.S.C. §1441 et seq. Defendants have filed the within Notice of Removal within thirty (30) days of their receipt of the Complaint in Civil Action, Defendants Sandeep Badwalsingh and Indy Freight, Inc., having been served on May 17, 2017, at which time it was first ascertained that this case is one in which is removable, and has been less than one year after commencement of the action. 28 U.S.C. §1446.

9. Concurrent with the filing of the Notice of Removal, Defendants have filed a Notice of Filing of Notice of Removal with the Circuit Court of Ohio County West Virginia, Circuit Court Clerk advising that Defendants have removed this action to the United States District Court for the

Northern District of West Virginia. Attached hereto as Exhibit "B" is a true and correct copy of the Notice of Filing of Notice of Removal.

10. At the time of filing this Notice of Removal, Defendants do not waive any affirmative defenses which may be available to them.

WHEREFORE, Defendants pray that this case be removed from the Circuit Court of Ohio County West Virginia to the United States District Court for the Northern District of West Virginia.

A JURY TRIAL IS DEMANDED.

Respectfully submitted,

**PION, NERONE, GIRMAN, WINSLOW
& SMITH, P.C.**

By: 

Timothy A. Montgomery, Esquire
WV I.D. #12034

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Counsel for Defendants, Sandeep Badwalsingh
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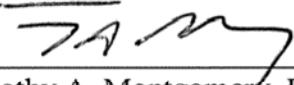
CERTIFICATE OF SERVICE

I, Timothy A. Montgomery, Esquire, hereby certify that on the 14th day of June, 2017, a true and correct copy of the foregoing Notice of Removal was served via U.S. Mail and/or facsimile upon the following counsel of record:

Joseph J. John, Esquire
John & Werner Law Offices, PLLC
Board of Trade Building, Ste. 200
80 – 12th Street
Wheeling, WV 26003
Via Facsimile – (304) 233-4387

Counsel for Plaintiff

**PION, NERONE, GIRMAN, WINSLOW
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